

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

Case No 1:20-CR-183-RJJ

THE UNITED STATES OF AMERICA,

Plaintiff,

HON. ROBERT J. JONKER

V

ADAM FOX, et al.

Defendants.

DEFENDANT ADAM FOX'S
REQUEST FOR ENTRAPMENT JURY INSTRUCTION
AND FOR INSTRUCTION BASED ON *BRANDENBURG v OHIO*

Now Comes Defendant Adam Fox, by and through Counsel, Christopher M. Gibbons of the Law Offices of Gibbons & Boer and requests that this Honorable Court to offer the Jury Instruction on Entrapment and an instruction based on *Brandenburg v Ohio*

The Governments case in chief has resulted in overwhelming evidence of its attempted entrapment. The Government's primary CHS admitted under oath that he sent thousands of private messages to Adam Fox, he spent hours of personal one on one time where he pushed violent actions such as an "ambush" while the Governor was on the way to her cottage. Adam Fox, expresses his reluctance by avoidance and failing to act on Dans constant prompting, for example he fails to provide photos or maps to his newly minted "kill squad" of "operators", in a FAFO Chat. Adam Fox was not accepted by his "Kill Team" in their private encrypted chat, known at the "Brick Squad". Another example, CHS Dan admitted on cross examination that he had

downloaded a real estate app onto his phone to find the Governor's address, not Adam Fox as he had alleged on direct. Adam Fox never provides his phone number to UCE Red and has not direct communication with him either before or after the Luther FTX event held on September 12, and 13 of 2020. When Adam fox suggests to Dan that the group just go "bug out" up North instead of pursuing Dan's "plan" to kidnap the Governor, Dan opines that a "bug out" plan is not feasible as Adam is stuck in the city, will not be able to travel, finishing with "Good Luck to you Sir". Direct evidence was admitted including text message tasking provided by S A Chambers tasking to Dan, such as "We need to get Adam focused", "Put him in a leadership Chat" and instructions to "start bugging people to find location for Sunday". See Defense Exhibits 2286-2289, 2300-2302.

It is also a factor that the Government presented a fraction of the communications and audio surveillance that exists, for example, of the five-hour barbeque on August 1, 2020 the Government played 17 seconds for the jury. The Government has prevented the introduction of any of the other audio of the Defendant's out of court statements expressing reluctance. As the Court is aware, under the FRE 803 even if the Defendants were to testify in their own defense, their prior statements of reluctance remain inadmissible hearsay, unless the Government challenges their credibility.

As to predisposition Adam Fox has no criminal record, he did gain any money nor has he ever engaged in any conduct remotely resembling the present charges. The Government, however, in its efforts to show such predisposition has swamped the evidentiary record with political speech that is protected by the First Amendment. This includes, but is not limited to Government's exhibits 2,3,6,17, 18, 21,22,31,33, 47,51, 69, and 70 which are open-source Facebook videos of Adam Fox complaining about the Government and otherwise using First Amendment protected speech. In addition, the Government has introduced Flags, Hawaiian Shirts, and even photographs

of Defendant Caserta's books and a pamphlet about citizens rights in support of the argument that the Defendants are members of the undesirable "boogaloo" movement that wants to lower taxes and invigorate adherence to the Constitution of the United States. Defendant Fox has fully briefed this request in ECF 220 and incorporates the law and arguments set forth therein.

Wherefore, Defendant Fox respectfully requests the Jury to be instructed on Entrapment and also an instruction on the imminence standard from *Brandenburg v Ohio*.

Dated March 30, 2022,

Respectfully Submitted,

/s/Christopher M. Gibbons
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